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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 GABRIEL ALLEN ECKARD,

9 Plaintiff,

10 v.

11 KAREN ZACHARIAS,

12 Defendant.

Case No. C19-833 BJR-MLP

ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT OF
COUNSEL

13
14 Plaintiff brings this civil rights action under 42 U.S.C. § 1983 alleging deliberate
15 indifference to a serious medical need. (Dkt. # 5 (“Verified Compl.”).) Plaintiff is proceeding
16 with this action *pro se* and *in forma pauperis*. The present matter comes before the Court on
17 Plaintiff’s motion for appointment of counsel. (Dkt. # 17.) Defendant Zacharias opposes
18 Plaintiff’s motion. (Dkt. # 18.) After careful consideration of the motion, the governing law, and
19 the balance of the record, the Court finds that the complexity of the legal issues present in this
20 case and Plaintiff’s ability to articulate his claims do not constitute exceptional circumstances to
21 justify the appointment of counsel. Plaintiff’s motion for appointment of counsel (dkt. # 17)
22 therefore is DENIED.
23

1 Generally, a person has no right to counsel in a civil action. *See Campbell v. Burt*, 141
2 F.3d 927, 931 (9th Cir. 1998). In certain “exceptional circumstances,” the Court may request the
3 voluntary assistance of counsel for indigent civil litigants under 28 U.S.C. § 1915(e)(1).
4 *Agyeman v. Corrections Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004). When determining
5 whether “exceptional circumstances” exist, the Court considers “the likelihood of success on the
6 merits as well as the ability of the [plaintiff] to articulate his claims pro se in light of the
7 complexity of the legal issues involved.” *Weyandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983).
8 Neither factor is dispositive, and they must be viewed together before reaching a decision on a
9 request for counsel. *Id.*

10 The Court concludes Plaintiff has not shown a likelihood of success on the merits. In
11 addition, Plaintiff appears able to articulate his claims *pro se* given that the legal issues are not
12 particularly complex. Indeed, the single claim against one defendant raised in Plaintiff’s action –
13 a violation of his right to adequate medical care – is straightforward in terms of both the law and
14 the facts. To the extent Plaintiff claims difficulties developing the factual record and conducting
15 discovery, those issues are not unique to him. If such difficulties were sufficient to establish
16 “exceptional circumstances,” nearly every *pro se* prisoner would be entitled to pro bono counsel.
17 *See Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (“Most actions require
18 development of further facts during litigation and a pro se litigant will seldom be in a position to
19 investigate easily the facts necessary to support the case. If all that was required to establish
20 successfully the complexity of the relevant issues was a demonstration of the need for
21 development of further facts, practically all cases would involve complex legal issues
22 [warranting appointment of counsel].”).

1 Accordingly, the Court concludes that Plaintiff has not established exceptional
2 circumstances warranting the appointment of counsel and therefore DENIES his motion to
3 appoint counsel (dkt. # 17).

4 Defendant Zacharias requests the Court strike the offensive language in Plaintiff's
5 motion. (Dkt. # 18 at 2 n.1.) Specifically, Plaintiff repeatedly refers to Defendant Zacharias as
6 "Burger Queen." (Dkt. # 17 at 1-2.) The Court finds this language impertinent and immaterial
7 pursuant to Rule 12(f). The Court cautions Plaintiff that any further derogatory statements
8 regarding Defendant Zacharias contained in a pleading before this Court will require the Court to
9 strike the entire pleading. The Court therefore ORDERS this language be stricken from the
10 record.

11 The Clerk is directed to send a copy of this Order to plaintiff and to the Honorable Barbra
12 J. Rothstein.

13 Dated this 18th day of October, 2019.

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16 MICHELLE L. PETERSON
17 United States Magistrate Judge
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